ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Second Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana	)	CC Docket No. 98-121

APPENDIX TO COMMENTS OF AT&T CORP. IN OPPOSITION TO BELLSOUTH'S SECOND SECTION 271 APPLICATION FOR LOUISIANA

VOLUME IV

Affidavit of Robert V. Falcone
and
Attachments 1 - 2

Filed August 4, 1998

APPENDIX TO COMMENTS OF AT&T CORP. IN OPPOSITION TO BELLSOUTH'S SECOND SECTION 271 APPLICATION FOR LOUISIANA

CC Docket No. 98-121

TAB	AFFIANT	SUBJECT(S) COVERED	RELEVANT STATUTORY PROVISIONS
A	Michelle Augier	AT&T Market Entry	§ 271(c)(1)(A), (c)(2)(B), (d)(3)
B	*William J. Baumol	Public Interest	§ 271(d)(3)(C)
C	*Robert H. Bork	Public Interest	§ 271(d)(3)(C)
D	Jay M. Bradbury	Operations Support Systems, Directory Listing, Number Portability, Resale	§ 271(c)(2)(B)(ii), (vi), (viii), (xi), and (xiv)
E	Robert V. Falcone	Unbundled Network Elements: Combinations	§ 271(c)(2)(B)(i), (ii), (v) and (vi)
F	Gregory R. Follensbee	Unbundled Network Elements: Pricing	§ 271(c)(2)(B)(i), (ii)
G	John M. Hamman	Unbundled Switching, Intellectual Property, Reciprocal Compensation	§ 271(c)(2)(B)(ii), (vi) and (xiii)
H	Donna Hassebrock	ADL, Interconnection, Operations Support Systems, Directory Listings, Number Portability	§ 271(c)(2)(B)(i), (ii), (viii) and (xi)
I	R. Glenn Hubbard and William H. Lehr	Public Interest	§ 271(d)(3)(C)
J	Patricia A. McFarland	Section 272 Compliance	§ 271(d)(3)(B)
K	Philip I. Miller and Dean A. Gropper	Public Interest - ILEC Ability to Harm Competition	§ 271(d)(3)(C)
L	Sharon Norris	Louisiana Public Service Commission Proceedings on Operations Support Systems	§ 271(c)(2)(B)(ii)

TAB	AFFIANT	SUBJECT(S) COVERED	RELEVANT STATUTORY PROVISIONS
M	C. Michael Pfau and Katherine M. Dailey	Performance Measurements	§ 271(c)(2)(B)(i), (ii) and (xiv)
N	Jordan Roderick	PCS	§ 271(c)(1)(A), (d)(3)

* Affidavits marked with this are as originally filed in CC Docket No. 97-231

MISCELLANEOUS APPENDIX

TAB	DESCRIPTION
O	Order, AT&T Communications of the Southern States, Inc. v. BellSouth Telecommunications, Inc., No. 5:97-CV-405-BR (Eastern District of North Carolina, Western Division May 22, 1998)
P	Recommended Decision, Pennsylvania Public Utility Commission, Petition of Bell Atlantic - Pennsylvania, Inc. For a Determination of Whether the Provision of Business Telecommunications Services is Competitive Under Chapter 30 of the Public Utility Code, Docket No. P-00971307 (July 24, 1998)

E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	CC Docket No. 98-121
Second Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana	)	

AFFIDAVIT

OF

ROBERT V. FALCONE

ON BEHALF OF

AT&T CORP.

AT&T EXHIBIT E

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	**CC Docket No. 98-121**
Second Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana	)	

AFFIDAVIT OF ROBERT V. FALCONE ON BEHALF OF AT&T CORP.

Robert V. Falcone, being first duly sworn upon oath, do hereby depose and state as follows:

INTRODUCTION

A. Background

1. My name is Robert V. Falcone. My business address is 9 Ashwood Trail, Long Valley, New Jersey, 07853. I am employed as a consultant by Ultrapro International. Prior to this job, I was employed at AT&T as a Division Manager in the Local Services Division.

2. I hold a B.S. in Business Administration from Adelphi University, Garden City, New York. Additionally, I have attended a number of technical and business related courses offered by the AT&T School of Business.

3. My career with AT&T began in 1970, working in a major switching center in New York City. My first assignment with AT&T, which lasted for about eight months, was as a frameman. In this assignment my responsibility was to install and remove cross-connections on various central office frames. For the next seven years I worked as a switchman in a central office performing switch provisioning and maintenance activities. In 1978, I became responsible for the administration of the New York City 4ESS switching complexes. In that assignment, I was responsible for implementing what are known as "recent changes" in AT&T's 4ESS switches. I was also later responsible for routing translations in AT&T's Northeastern Region, divestiture planning, and access bill verification. In 1985, I assumed responsibility for access engineering in the Northeast region. I also served as project manager for the business service development organization, technical support for SS7 network interconnection, and network consultant for Unitel of Canada. In 1995, I assumed my position in the Local Services Division. My duties in that position included providing network technical support for new service applications and participating in various federal and state proceedings.

B. Summary of Testimony

4. The purpose of this testimony is to address the technical, service quality and business implications of BellSouth's position that the only point of access for recombining the loop and switch elements that BellSouth will make available to competing local exchange carriers (CLECs) is collocated space in a BellSouth central office. As discussed below, BellSouth's insistence on restricting CLECs to manual recombination of

elements in collocated space is an impractical, inherently discriminatory, and costly precondition for combining the unbundled loop and switching elements.

5. As the Commission has found, "the ability of new entrants to use . . . combinations of unbundled network elements is integral to achieving Congress' objective of promoting competition in the local telecommunications market."[1] Broad-based competition, particularly for small business and residential customers, simply will not develop in significant volumes in the near-term, unless effective ways for CLECs to combine UNEs are available.

6. No means of providing element combinations is as technically rational, economic, or pro-competitive as having BellSouth make combinations available to CLECs at cost-based rates. Nevertheless, as a result of the decision by the Eighth Circuit Court of Appeals, it is necessary to explore various methods by which CLECs would combine UNEs themselves if BellSouth insists on tearing apart existing element combinations before providing them to CLECs. BellSouth, however, has blocked serious consideration of various available methods of combining UNEs to facilitate broad-based entry by insisting on only one method of access for CLEC to recombine unbundled elements -- collocation. By stifling the development of alternatives to collocation, BellSouth is also able to stifle near-term competition for massive portions of the local service market.

---

[1] In the Matter of BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-region, InterLATA Services in South Carolina, CC Docket No. 97-308, Memorandum Opinion and Order, (Dec. 24, 1997) ¶ 195 (emphasis added) ("BellSouth South Carolina Order").

7. After briefly setting forth, in Part I of this Affidavit, my understanding of the duty that the Act places upon BellSouth to make its network elements accessible to CLECs for purposes of recombination, I describe in Part II the collocation process as it would be used to recombine the loop and the switch.

8. In Part III, I discuss the business implications of collocation. In particular, I explain why collocation, in all its forms:

(1) imposes service interruptions for customers when they change to a CLEC as their local service provider;

(2) delays CLECs' ability to enter the market via UNE-combinations and wastes central office and frame space, both scarce and valuable resources;

(3) severely restricts the rate at which CLECs could switch customers over to UNE-based service even after collocation arrangements are established;

(4) degrades the quality of the end user customer's service;

(5) imposes wasteful, unnecessary, and uncertain costs on CLECs; and

(6) prevents CLECs from effectively combining other unbundled elements, such as the unbundled switch and transport and the unbundled loop and transport.

In light of these obstacles, I conclude in Part III that requiring CLECs to use collocation would, as a practical matter, deny CLECs the opportunity to use combinations of UNEs to compete with BellSouth.

9. Finally, in Part IV, I discuss alternative ways that CLECs could recombine the loop and switching elements without requiring collocation, including methods

that would not require CLECs to own or control network facilities in order to obtain UNEs. Each of the alternatives has significant disadvantages as compared to obtaining existing combinations of elements. However, the several alternatives raised by AT&T, other CLECs, and state commissions are all technically feasible and have some significant advantages over collocation. BellSouth, nonetheless, has summarily rejected them and insists that collocation be the exclusive means by which CLECs combine UNEs.

10. Although my affidavit contains significant detail on a host of problems raised by BellSouth's requirement that CLECs combine UNEs in collocated space, my overall message is simple: the collocation method for recombining unbundled elements that BellSouth is forcing CLECs to use requires the most manual work and is the most labor-intensive method that can be contrived.

11. Any method involving these substantial amounts of manual work and labor would necessarily seem to me to be drawn up by lawyers, rather than crafted by network engineers. Those engineers have been working for years to develop and implement in the network automated processes that are more efficient, offer better functionality, and are more reliable than manual work. I include as an attachment to my affidavit the recent testimony of Amos Joel, a former Bell Labs engineer with over 40 years of experience in network engineering, that sets forth how and why engineers have reduced manual processes in the network. See Attachment 1. In my view, and based on my experience working in central offices, the biggest problem in the central office is "POE," or plant operating error, which simply means that humans have been touching equipment there and making mistakes.

From an engineering perspective, it is critical that CLECs be permitted to pursue, and ILECs required to investigate, technically feasible methods of combining unbundled elements that avoid the problems associated with manual work and that take advantage of the electronic and automated processes that engineers have added to the network to improve its reliability, functionality, and efficiency.

12. BellSouth claims that it "regularly uses" these same manual processes, that they are "precisely analogous" to some of its current network operations, and that this work is "neither cumbersome nor labor intensive." Br. at 39. As I will explain fully, these claims paint a false picture, both of BellSouth's existing network operations and of the manual work involved in using collocation to combine UNEs. In fact, the manual work involved in recombining UNEs is substantially different than BellSouth's existing operations and will be performed in far greater numbers and under far different competitive conditions than any manual work now done in the network. That is why I emphasize in my affidavit BellSouth's failures, for example, to agree to new methods and procedures for performing this manual work or to commit to a firm number of technicians to perform a specific amount of this work each day. But the fundamental point remains that the manual processes involved in combining UNEs via collocation is so inherently burdensome that other alternatives must be explored.

I. BELLSOUTH HAS A DUTY TO PROVIDE CLECs WITH NONDISCRIMINATORY ACCESS AT ANY TECHNICALLY FEASIBLE POINT SO THAT CLECs CAN COMBINE NETWORK ELEMENTS

13. The Telecommunications Act of 1996 ("Act") imposes several key duties upon incumbent local exchange carriers like BellSouth. One of these is the "duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point . . .on rates, terms, and conditions that are just, reasonable, and nondiscriminatory." 47 U.S.C. § 251(c)(3) (emphasis added). This Commission has further explained and reinforced these duties in its rules implementing section 251, in its Local Competition Order, and in its BellSouth South Carolina Order.

14. For example, Rule 51.321(a) and (b) requires that an "incumbent LEC shall provide . . . any technically feasible method of obtaining . . . access to unbundled network elements at a particular point," and makes clear that those methods "are not limited to" collocation. 47 C.F.R. § 51.321(a), (b) (emphasis added) see also id. § 51.5 (requiring incumbent LECs to provide "collocation, and other methods of achieving interconnection or access to unbundled network elements....") (emphasis added). Notably, Rule 51.5 makes clear that "economic, accounting, billing, space, or site concerns" are not relevant to the determination of technical feasibility, "except that space and site concerns may be considered in the circumstances where there is no possibility of expanding the space available." Id. Nevertheless, the rule states that a LEC's need to "modify its facilities or equipment to respond to such a request does not determine whether such request is technically feasible."

Id. Finally, the rule requires "clear and convincing evidence" of "specific and significant adverse network impacts" before such concerns may be deemed to render a request technically infeasible. Id.

15. In its BellSouth South Carolina Order, the FCC noted that it had "concluded in the Local Competition Order that new entrants have a choice of methods for access to unbundled network elements, and that this choice must include (though is not limited to) either physical or virtual collocation." BellSouth South Carolina Order ¶ 207 (emphasis added); see also id. ¶ 184 ("any requesting carrier may choose any particular method of technically feasible . . . access to unbundled network elements").

16. In addition to making clear that ILECs have a duty to provide access to unbundled network elements by methods other than collocation, the Commission's rules clarify that the ILECs have a duty to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory." 47 C.F.R. § 51.307(a)(emphasis added). More important still, the Commission has further clarified that an "incumbent LEC shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends." 47 C.F.R. § 51.309(a). And further underscoring the nondiscrimination obligation, the Commission's rule states that "the terms and conditions" upon which access to network elements is provided "shall, at a minimum, be no less favorable to the requesting carrier than

the terms and conditions under which the incumbent LEC provides such elements to itself." Id. § 51.313(b). Finally, Rule 311(b) requires that the "quality of the access" for "unbundled network element[s] that an incumbent LEC" provides "shall be at least as equal in quality to that which the incumbent LEC provides to itself." Id. § 51.311(b).

17. In upholding Rule 51.5 against the challenge brought by incumbent LECs and others, the Eighth Circuit stated that "the FCC's definition of 'technically feasible' is reasonable and entitled to deference." Iowa Utilities Board v. FCC, 120 F.3d 753, 810 (8th Cir. 1997). The Court further clarified that, although it struck down the Commission's rules requiring incumbent LECs to alter their networks to provide superior quality interconnection and unbundled access, the court "endorse[d] the Commission's statement that the 'obligations imposed by sections 251(c)(2) and 251(c)(3) include modifications to incumbent LEC facilities to the extent necessary to accommodate interconnection or access to unbundled network elements. First Report and Order, p. 198." 120 F.3d at 813 n.33. And while the Court, on rehearing, vacated this Commission's rules banning the separation of network elements, it did not disturb the rules that implement the statute's explicit nondiscrimination requirement.

18. In addition to these duties, and as is the case with any individual network element, the Commission has determined, in ruling on BellSouth's prior application for South Carolina, that BellSouth and other ILECs must specify "definite terms and conditions for recombining network elements." BellSouth South Carolina Order ¶ 197. In that application as here, BellSouth relied solely on collocation as the method by which

CLECs could recombine UNEs. See id. ¶ 182. The Commission found that BellSouth had failed to satisfy its obligation to provide UNEs to CLECs in a manner that allows them to be combined. In particular, the Commission found that BellSouth's SGAT, which consisted only of "two brief paragraphs that lack crucial details," did not "adequately specify what BellSouth will provide, the method in which it will be provided, or the terms upon which it will be provided." Id. ¶ 197 (citing to Department of Justice Evaluation, at 20).

19. The Commission found that BellSouth's collocation proposal lacked "concrete and specific legal obligation[s]" (id. ¶ 200 n.588) in at least four areas: First, BellSouth did not commit to "any particular interval for entertaining and implementing requests for collocation." Id. ¶ 202. Second, BellSouth did not "demonstrate that it is in fact offering collocation in a timely manner." Id. ¶ 203. Third, BellSouth "failed to provide sufficient information on whether its physical collocation costs, as contained in the SGAT, are 'just, reasonable and nondiscriminatory.'" Id. ¶ 204 (quoting 47 U.S.C. § 251(c)(6)). The Commission specifically noted that BellSouth's collocation space preparation fees were "left to further negotiation on an individual case basis." Id. Fourth, BellSouth did not "demonstrate that it can timely deliver unbundled network elements to [collocation] spac[e] . . . or that the provision of those combined elements will be at an acceptable level of quality." Id. ¶ 205. In particular, the Commission noted that BellSouth had provided neither "evidence of actual commercial usage" of recombined UNEs, which is the "most

probative" evidence, nor even "testing of physical collocation for the purpose of recombining network elements."[2]

20. It is therefore my understanding that BellSouth and other incumbent LECs must provide requesting carriers access to their unbundled network elements not only in collocated space but also through the use of any technically feasible method. Further, BellSouth must do so on terms and conditions that are reasonable, nondiscriminatory, and at parity with the access that BellSouth itself enjoys. Finally, BellSouth has the duty to provide collocation for recombining UNEs upon terms and conditions that are both concrete and binding. At a minimum, simply to remedy the defects in its prior applications, BellSouth must provide definite intervals for providing collocation, must show that it is in fact offering collocation in a timely manner, must provide definite rates on all cost categories, and must provide evidence that it can timely deliver UNEs, at equal levels of quality, to CLECs for recombining.

21. These obligations take on additional significance in light of the Eighth Circuit's decision to vacate the Commission rule that prohibited ILECs from separating network elements that are already combined in their networks. If BellSouth may insist that CLECs recombine separate network elements, it is even more important that requesting

---

[2] Id. In addition to these defects, the Commission voiced similar concerns over BellSouth's policy for virtual collocation, finding, for example, that BellSouth "has not provided any details by which we could determine that its virtual collocation offering actually permits nondiscriminatory access to unbundled network elements in a manner that allows new entrants to combine them." Id. ¶¶ 207-208.

carriers be allowed to use any technically feasible access to network elements on a nondiscriminatory basis. Otherwise, they will be precluded altogether from using combinations of network elements to provide competitive telecommunications services.

II. BELLSOUTH'S COLLOCATION REQUIREMENT DOES NOT COMPLY WITH ITS STATUTORY DUTIES AND WILL SIGNIFICANTLY IMPEDE COMPETITION

A. BellSouth's Collocation Requirement

22. To satisfy its obligation to provide unbundled network elements in a manner that allows CLECs to combine them, BellSouth offers access to UNEs only in collocated space. See Br. at 40 (claiming that BellSouth may dictate only one method for CLECs to combine UNEs). Of the duties imposed on BellSouth that I just outlined, this collocation requirement violates all of them. First, because several other methods to combine UNEs are technically feasible, BellSouth is obligated to permit requesting CLECs to use any of these technically feasible methods. In fact, several state commissions are holding proceedings to investigate these methods of access to combine UNEs. See ¶ 156, infra. Standing alone, BellSouth's insistence on only one method of access to UNEs, where other methods requested by CLECs are technically feasible, violates its duties under the Act.

23. Second, BellSouth's collocation requirement violates BellSouth's duty to specify definite and binding terms for recombining network elements. Although BellSouth asserts that its "SGAT and technical materials provide the specific details that CLECs need to combine UNEs," Br. at 38 (emphasis added), the SGAT, interconnection

agreements, and other documents that bind BellSouth in fact provide almost no specific details or definite terms that CLECs need to recombine elements. Although other documents such as affidavits provide some -- but not all -- of the more specific details, these statements are not binding and provide no assurances to the CLEC that BellSouth can and will perform as it claims. In fact, BellSouth's Collocation Handbook, one of the "technical materials" referred to in the Brief and the SGAT, starkly proclaims that it "does not represent a binding agreement." See Tipton Aff., Exh. PAT-2, at 4. And, even if BellSouth had provided definite, legally binding terms and conditions for recombining UNEs, it unquestionably has also failed to comply with its duty to demonstrate, using evidence of actual commercial usage, that it can timely provision these unbundled elements to collocated space with a service quality equal to its own operations.

24. Contrary to BellSouth's claims, the terms and conditions in BellSouth's Louisiana SGAT for CLECs to combine UNEs are even more brief and indefinite than those in BellSouth's South Carolina SGAT, which was rejected by the Commission in its BellSouth South Carolina Order. Cf. SGAT § II.F with BellSouth South Carolina Order, ¶¶ 185-86, 193, 197. BellSouth's SGAT for Louisiana describes the terms and conditions for combining UNEs in one paragraph:

> F. Combining Network Elements. A requesting carrier is entitled to gain access to all of the unbundled elements that when combined by the requesting carrier are sufficient to enable the requesting carrier to provide telecommunications service. Requesting carriers will combine the unbundled network elements themselves.

SGAT, § II.F. The provision on collocation in BellSouth's SGAT is equally vague as to how CLECs can recombine UNEs:

> 6. Collocation. Collocation allows CLECs to place equipment in BellSouth facilities. Physical and virtual collocation are available for interconnection and access to unbundled network elements. BellSouth will provide physical collocation for CLEC equipment unless BellSouth demonstrates to the Commission that physical location is not practical for technical reasons or space limitations. Detailed guidelines for collocation are contained in BellSouth's Handbook for Collocation.

SGAT § II.B.6. On its face, this language "does not adequately specify what BellSouth will provide, the method in which it will be provided, or the terms upon which it will be provided." BellSouth South Carolina Order ¶ 197.

25. In addition, the interconnection agreements upon which BellSouth attempts to rely to satisfy the checklist also do not contain or fail to describe with specificity BellSouth's commitments to provide access to UNEs for recombinations. In its agreement with KMC, for example, only section 9.4.1 describes BellSouth's terms and conditions for recombining UNEs, and only in the most general terms: "KMC shall access BST's unbundled Network Elements via Collocation in accordance with Section 12 at a BST premises where those elements exist and each Loop or Port shall be delivered to KMC's Collocation by means of a Cross Connection." KMC-BellSouth Agreement, § 9.4.1 (March 25, 1997) (App. B, Tab 17 to BellSouth Second Application).[3] BellSouth's interconnection

[3] Section 12 of the KMC interconnection agreement is no more specific, and only parrots the language in BellSouth's SGAT: "BST shall provide Collocation for the purpose of Interconnection of access to Unbundled Network Elements." Id. § 12.1; cf. SGAT § II.B.6.

agreements with the five other carriers on which it relies also do not commit BellSouth to specific terms and conditions for allowing access to UNEs for recombination.[4]

26. BellSouth's SGAT refers CLECs to the Handbook for Collocation, which, although it provides some additional details, is still incomplete in several critical respects and also is not binding on BellSouth in any way: "By design, this document does not contain detailed descriptions of interdepartmental procedures, network interface qualities, network capabilities, local interconnection or product service offerings. This document . . . does not represent a binding agreement in whole or in part between BellSouth and subscribers of BellSouth's Collocation Service." BellSouth Collocation Handbook, Version 7.1., Apr. 24, 1998, at 4, Tipton Aff., PAT Exh. 2 (emphasis added). The Collocation Handbook, therefore, cannot provide the concrete, legally binding terms for recombining UNEs that BellSouth must provide.

27. From BellSouth's Collocation Handbook, CLECs are then referred to BellSouth's Standard Physical Collocation Agreement to find the "actual Terms and Conditions of BellSouth's Physical Collocation offering." Id. (emphasis added). But the only concrete and binding terms in that document concern the process of establishing

---

[4] See BellSouth-ACSI Agreement, § IV.B (Aug. 13, 1996) (App. B, Tab 5 of BellSouth Second Application); BellSouth-AMC Agreement, § VII (Oct. 8, 1996 & Sept. 29, 1997) (App. B, Tabs 1 & 38 of BellSouth Second Application); AT&T-BellSouth Agreement, §§ 1A 30.5-6, (July 21, 1997) (App. B, Tab 30 of BellSouth Second Application); BellSouth-Entergy/Hyperion Agreement, §§ 1A, 30.5-6 (Nov. 25, 1997) (App. B, Tab 43 of BellSouth Second Application); Shell-BellSouth Agreement, §§ 1A, 28.5-6 (May 21, 1997) (App. B, Tab 26 of BellSouth Second Application).

collocated space. See BellSouth Master Collocation Agreement, Tipton Aff, Exh. PAT 2.[5] As I detail below, under BellSouth's collocation requirement, establishing collocated space is only one prerequisite for CLECs wishing to combine UNEs. A host of other steps and procedures are required to provision service to customers, and BellSouth nowhere provides binding and concrete terms and conditions for these fundamental activities. Thus, the Agreement does not contain the required, binding terms that commit BellSouth to allowing CLECs access to UNEs in order to recombine them to provide competitive local services.

28. In fact, most of the details of BellSouth's collocation requirement, to the extent they are provided at all, are contained in non-binding documents such as the Collocation Handbook and in BellSouth's affidavits. See Milner Aff. ¶¶ 39, 46; Varner Aff. ¶¶ 67-71; Tipton Aff., ¶¶ 4-36 (describing BellSouth's collocation offer). For a CLEC looking to enter the market using combined UNEs, however, these descriptions of BellSouth's collocation requirement are not the type of binding commitments that a competitor must have in order to enter the market. Without a legally binding commitment to specific procedures, backed up by remedies for non-compliance, a CLEC simply has no guarantee that BellSouth will not change its terms tomorrow, and no recourse against such a change. Such concerns are real. TCG's need to resort to a formal complaint process to compel BellSouth to comply with state-imposed collocation pricing requirements in Georgia

[5] The Master Agreement has been incorporated into two of the six interconnection agreements relied upon by BellSouth. See KMC-BellSouth Agreement, § 9.4.1 (March 25, 1997) (App. B, Tab 17 to BellSouth Second Application); BellSouth-AMC Agreement, Amendment of Sept. 29, 1997 (App. B, Tab 38 of BellSouth Second Application).

vividly illustrates the point.[6] Yet another example can be found in NEXTLINK's experience of attempting to order collocation using BellSouth's SGAT: BellSouth's representative disclaimed knowledge of the SGAT, and, after being informed of its meaning, told NEXTLINK that the SGAT's terms lacked sufficient terms for ordering collocation.[7] As these examples show, binding and detailed commitments, coupled with significant remedies, are essential for CLECs to force BellSouth to abide by its obligations.

29. Even if BellSouth had committed to such definite and binding terms, it also has violated its duty to demonstrate that it is in fact delivering, according to those terms, unbundled elements to collocated space in a timely fashion and at acceptable quality levels. BellSouth South Carolina Order ¶ 205. BellSouth has plainly provided no such evidence, either in the form of actual commercial usage or of sufficient in-house testing. Without such evidence, BellSouth has not complied with the competitive checklist.

30. Finally, BellSouth's collocation requirement violates its duties under the Act for a third, independent reason: collocation does not provide access to UNEs on terms that are "just, reasonable and nondiscriminatory." See 47 U.S.C. § 251(c)(3); 47 C.F.R. § 51.307(a). BellSouth's collocation requirement fails this duty for numerous reasons, set forth

---

[6] TCG, Formal Complaint No. 2, Georgia PSC, In re Complaint of Teleport Communications Group, Inc. Against BellSouth Telecommunications, Docket No. 6903-U (June 12, 1998) ("TCG Georgia PSC Collocation Complaint") (included as Attachment 2).

[7] NEXTLINK Georgia, Inc.'s Comments on BellSouth's Notice of Intent, Georgia Public Service Commission, In the Matter of Consideration of BellSouth's Entry into InterLATA Services, Docket No. 6863-U, at 7 (June 15, 1998) (excerpt included as Attachment 3).

in the rest of my affidavit. Before I turn to that part of my affidavit, however, it will be useful to explain the types of collocation that BellSouth includes as part of its collocation requirement, the way in which loops are typically connected to the switch in the ILEC central office, and the steps CLECs must take to serve customers with recombined UNEs under a collocation requirement.

1. Physical Collocation

31. Physically collocated space is simply space within a central office that is leased by and dedicated to a CLEC. See photograph at Attachment 4. BellSouth normally constructs a common area that is segregated from its own central office equipment and that contains the collocated space of all collocating CLECs. Tipton Aff. ¶ 9. Such space is often located at a significant distance -- possibly hundreds of feet and/or several floors away -- from the Main Distribution Frame, or MDF, which is the simple piece of equipment to which ILECs attach the copper wire loops. See infra Part II.B.1. In the typical collocation arrangement, each CLEC's space is enclosed, normally using wire mesh that forms what is known as the collocation "cage." In Louisiana and several other states, however, BellSouth does not permit the use of wire mesh to enclose collocated space, but rather requires a more costly arrangement that uses gypsum wallboards. Collocation Handbook, at 10, § 3.6, Exh. PAT-2. The minimum amount of enclosed space that is available is 100 square feet, with additional 50 square foot increments. Id. In an enclosed physical collocation arrangement, entry into the collocated space is limited and is controlled by the CLEC (except in emergencies) through a locked door. Within the collocated space, a CLEC that wanted to